

## Representation to enforce fundamental and statutory rights of socially and economically weaker class of passengers and further to stop unjust enrichment by unfair trade practices.

1 message

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To: mr@rb.railnet.gov.in, crb@rb.railnet.gov.in

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Union of India through its secretary,

Ministry of Railway

Railway Board, New Delhi-110001

Subject: Representation to enforce fundamental and statutory rights of socially and economically weaker class of passengers who used to travel in general class, 2nd seating and sleeper class especially in long route trains and further to stop unjust enrichment by unfair trade practices.

Dear Sir,

1. Undersigned as a citizen of India, constrained to prefer this representation on subjected issue for the benefit of persons who on account of not only poverty but also total ignorance of their rights and thus unable to approach the Hon'ble Court. You not only violating every day the fundamental and legal right rights of socially and economically disadvantaged persons but getting unjust enriched yourself to the substantial extent by arbitrarily, unfairly, whimsically and unjust action whereby a huge amount is collected, without even issuing any receipt thereof, from the passengers travelling in Rail by inter alia allowing carrying the passengers beyond the prescribed limit in general class, 2nd seating and sleeper class, issuing huge number of Waitlist Tickets by way of Advance Reservation; subsequently which are not confirmed, charging cancellation fee for cancellation of even such waitlist or RAC tickets even after chart preparation, tatkal charges for booking and cancellation of ticket without providing any value added facilities for this tatkal charge etc
2. You enjoy monopoly in the business of Railways - an activity of a commercial nature with a profit motivation.
3. The Railway Act imposes a mandatory obligation upon the railway administration not to allow carrying the passengers beyond the prescribed limit in each compartment of every description of carriage but in intentional breach of this with sole motive of unjust enrichment, you allow carrying the passengers beyond the prescribed limit in general class, 2nd seating and sleeper class especially in night journey in long route train in every day. It is pertinent to mention here that you strictly following your duty (not allowed carrying passengers beyond prescribed limit) for all reservation classes of AC carriage but not discharging the same duty in general class, 2nd seating and sleeper class

especially in night journey in long route train.

4. In such long route journey especially in night, human being is under natural compulsion to sleep and sleep is essential for a human being to maintain the delicate balance of health necessary for its very existence and survival. Sleep is, therefore, a fundamental and basic requirement without which the existence of life itself would be in peril. The Hon'ble Supreme court has declared that right to life includes right to live with dignity and further right to live with dignity includes right to travel with dignity after paying requisite fare. You are carrying large number of passengers beyond the prescribed limit in general class, 2nd seating and sleeper class especially in night journey in long route train unauthorisely in violation of law. The Hon'ble Apex Court has said "To take away the right of natural rest is also therefore violation of a human right. It becomes a violation of a fundamental right when it is disturbed intentionally, unlawfully and for no justification." This fundamental right is being violated intentionally, unlawfully and for no justification especially when general class, 2nd seating and sleeper class especially in night journey in long route train passengers have paid requisite money as demanded by you for inter alia to sleep peacefully. Passengers entry in general class, 2nd seating and sleeper beyond prescribed limit has been often reported in different newspapers especially in festive season when you intentionally with sole motive of unjust enrichment allow booking of wait list tickets in huge numbers and further permit to travel holder thereof into coaches.

5. You have fixed in arbitrary manner different period of Advance Reservation Period i.e. 10, 15, 30 and 60 days for different trains. Huge numbers of waitlist tickets are issued in popular trains of long route and you have put 60 days as maximum Advance Reservation Period for most of the popular trains for long route. You are the overall authority in deciding on the reservation policy as informed by Director Traffic Commercial (G), Railway Board. Further you have arbitrarily and unfairly put different days for booking of advance reservation period for different trains. It is pertinent to mention here that Director Traffic Commercial (G), Railway Board has specifically informed me that there is no information available in his office to the effect that whether railway has done or caused to be done any survey / study to know that how many days in advance Indian Citizen planned their journey. It is pertinent to mention here that in past you used to change the Advance Reservation Period without any valid reasons as per your wish.

6. You with ulterior motives and mala fide intention have permitted to issue unreasonably, unfairly and whimsically huge number of waitlist tickets to the passengers through the advance booking at the ticket counter as well as through e-ticket provided by IRCTC. Under such circumstances passengers holding waitlist tickets other than e-ticket booked at the ticket counters compelled to either cancel their ticket or undergo journey in a lower category / class. In case of cancellation of such waitlist ticket, with ulterior motives and mala fide intention with sole motive of unjust enrichment levies unfairly, whimsically excessive amount of clerkage on cancellation of such unused waitlisted tickets.

7. It is pertinent to mention here that passengers with waitlist ticket booked at ticket counters are allowed to complete their journey in sleeper class as unauthorized passengers and every railway administration, off record, has permitted such unauthorized journey with sole motive of unjust enrichment. Such passengers do not take the refund as provided in law believing that they have completed their journey against the waitlist tickets. A perception has been spread by every railway administration (with ulterior motives and mala fide intention with sole motive of unjust enrichment) among such passengers that they can complete their journey on waitlist ticket of sleeper class. It is relevant to mention here that such practice has been allowed only in sleeper class coaches.

8. Due to such passenger entry in general class, 2nd seating and sleeper coaches, passengers is being compelled to travel in inhuman condition as such entry leads to inconvenience to passengers with confirmed tickets and overcrowding of compartments. It is pertinent to mention here

that maximum limit to carry passengers in each compartment of every description of carriage has prescribed after considering a number of factors such as space of comfortable seating, to discharge natural duties, water availability in needs, to breathe comfortably etc.

9. You intentionally issuing waitlisted tickets in large numbers especially in peak seasons and in popular trains. Due to arbitrarily issuance of huge number of waitlisted tickets to the beyond the possibility of confirmation, holder of such waitlisted tickets are forced to cancel their waitlist tickets after chart preparation and further you earn a huge amount per year. It is most respectfully submitted that as per information obtained through RTI for the period of 2005 to 2012, the Railways earned a neat Rs. 750 crore on account of cancellations of e-tickets alone. Data of such income is as under:

S. No.	Years	Tickets sold (lakh)	Ticket income (Rs crore)	Revenue from cancellation charges (Rs crore)
1	2005-06	25	317	2.85
2	2006-07	68	678	5.79
3	2007-08	189	1,700	15.61
4	2008-09	440	3883	99.42
5	2009-10	719	6011	190.63
6	2010-11	969	8007	235.37
7	2011-12	1,161	9498	198.80*

(\* Cancellation figures up to December 2011)

It is pertinent to mentioned here that substantial increment in year wise earning can be noticed. It is believed that there must be much more year wise earning from cancellation charges from ticket booked at ticket counter. A news item also published in the Times of India, renowned and well-known English daily. The news item can be found on its website at <http://timesofindia.indiatimes.com/city/mumbai/E-ticket-cancellations-fetch-railways-Rs-750-crore/articleshow/13418793.cms>

10. That the law provides for the refund of unused waitlisted tickets and difference of fare amount in case passenger travels in a lower carriage than one of which ticket was obtained. However you have failed to circulate and publicize relevant provisions of law with honesty and in public welfare to the public. The ignorance of refund rules results in loss of fare amount by the passengers in huge portions and you are accumulating profits by illegal means. It pertinent to mention here that section 60(4) of the Railway Act mandates you as under

“Every railway administration shall keep at every station on its railway a copy of all the rules made under this section and shall also allow any person to inspect it free of charge” but you, with ulterior motives and mala fide intention has failed to take steps to keep at every station copy of all the rules to inspect it free of charge by any person. I have informed DRM at Allahabad to implement this provision on 06-02-2014 but till date I have not received any communication from him.

11. That larger Advance Reservation Period is also being misused by tout to booking of tickets in

bulk in advance in long distance and popular trains, and sells them at a premium to passengers. Moreover most of the travelers do not plan their trip months in advance, owing to the hectic lifestyle. This has been admitted by some railway official as claimed in a new report of new portal.

12. That Tatkal scheme was launched in the late 1990s with an additional coach in the trains was introduced as value added services being called T-1 and TS-1; These were the Tatkal coaches and they were in addition to the regular ones.. In FY 2003-04, the with ulterior motives and mala fide intention with sole motive to unjust enrichment without making any public announcements, changed this norm. Without investing in additional rakes, 10% of all seats and now up to 30% were moved into the Tatkal quota. This was a decision with a huge impact on the availability of tickets to the common man leading to cause of booking of more waitlist ticket. The earnings from Tatkal Scheme during the last few years has been as under:-

Financial Year	Earnings from Tatkal Scheme
	(in ` crores)
2005-06	126
2006-07	207
2007-08	396
2008-09	605
2009-10	672
2010-11	729
2011-12	847
2012-13	994

13. It is pertinent to mention here that you earn huge amount from taktal without providing any facility against irrational, unfair tatkal charges at the cost of common man.

14. That I filed an application under Right to Information Act (RTI) and obtained information with regard to the year wise earning of Railway divisions from non-cancellation of wait listed tickets as under:

S. No.	Year	East Railway	Cost	South western Railway	Northern Railway
1.	2008-09	Rs.21,97,88,037		Rs.40,81,79,633	Rs.2,02,85,66,980
2.	2009-10	Rs.25,21,23,046		Rs.47,55,56,484	Rs.2,60,55,52,012
3	2010-11	Rs.27,80,70,887		Rs.77,83,38,738	Rs.3,18,12,58,506
4	2011-12	Rs.34,52,63,646		Rs.65,62,48,738	Rs.3,82,40,95,948
5	2012-13	Rs.40,26,10,405		Rs.68,64,99,498	Rs.4,15,83,01,430

It is pertinent to notice here that there is a substantial enhancement in unjust enrichment each year.Aforesaid income is from the three zones only and there are as many as 16 zones. Thus such unjust enrichment may be beyond the imagination of a common man. Thus, you are making huge profits at the cost of hard earned money of the public illegally, irrationally, and unfairly.

15. You issue RAC tickets which mean a ticket on which a seat has been reserved against

requisition for a berth and a berth may be subsequently provided against cancellation. You charge full ticket amount from a passenger holding a RAC ticket who is not given a berth due to non-availability of the accommodation and required to travel on a seat on payment of fare for berth.

16. Discretionary power is being used by you in illegally, irrationally, and unfairly manner for unjust enrichment by intentionally issuing waitlist tickets in routine manner beyond the possibility of its confirmation.

17. That section 52 of the Act says "If a ticket is returned for cancellation, the railway administration shall cancel the same and refund such amount as may be prescribed" Person who booked e-ticket does not returned the ticket for cancellation but it is railway system that forcefully cancelled his tickets and charge cancellation fee against the provisions. Further you with ulterior motives and mala fide intention first permits to issue unreasonably, unfairly and whimsically huge number of waitlist tickets to the passengers beyond the possibility of confirmation and after chart preparation forced holder of such waitlist passenger either to travel in lower class for want of accommodation or get their tickets cancelled. Such cancellation leads to unjust enrichment to you when you have monopoly in this field.

18. That when any Waitlist ticket or RAC ticket is cancelled, no loss is incurred to railway so there can be no justification for levying any cancellation charge upon cancellation of waitlist or RAC tickets. Hence cancellation charge upon cancellation of waitlist or RAC tickets is irrationally, arbitrarily, unreasonably, unfairly, whimsically. It is cancellation of confirmed tickets upon which cancellation charge should be imposed.

19. That running of Indian Railways is a commercial activity of the state and not a sovereign function of the government. This function falls within the fold of welfare state and the only motive of the state is not earning of profits. The government while engaging itself in any commercial activity is expected to be not driven by the profit making but by the maximum welfare of the subject. You are charging public for the services you are not rendering and making huge profits.

In the light of aforesaid facts and circumstances, you are requested to issue necessary directions to the concern within 15 days from the date of receipt of this representation to

- (a) introduce appropriate number of trains with total unreserved berths on heavy traffic routes to fulfill the purpose of section 57 of the Act in its letter and spirit,
- (b) Issue only confirmed tickets or in case waitlisted tickets are issued, proper arrangements are to be made to allot accommodation against all waitlisted tickets issued,
- (c) Charge fare of one berth equally from the passengers on RAC tickets who share same berth,
- (d) levy cancellation charge / fee only for the cancellation of confirmed tickets and further, the cancellation charges be made uniform for every class of ticket,
- (e) Fix 10 days as advance reservation period for booking of reservation tickets
- (f) Issue receipt against payment of fare
- (g) Frame guidelines of additional coaches or running additional train where huge number of waitlisted tickets are issued,
- (h) keep at every station copy of all the rules made under Chapter VIII

Please note that if aforesaid steps not taken within 15 days from the date of receipt of this representation, I shall be constrained to approach concern appropriate authority at your cost. Please also note that this representation is being issued from Allahabad as I am physically present at here.

Sincerely yours,

Mintu Kumar

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